IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.MC.No. 3881 of 2006()

CC.266/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

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PETITIONER: ACCUSED

K.P.SHAJAHAN,
AGED 28 YEARS, S/O.ABDULLA,
RESIDING AT KUNHIMANGALAM,
KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS: COMPLAINANT

STATE,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3881 OF 2006

Dated this the 5th day of December, 2006

ORDER

When this matter came up for hearing and after discussions at the Bar, the learned counsel for the petitioner makes only one request. He prays that the petitioner may be permitted to withdraw this petition and raise all his contentions before the learned Magistrate to claim discharge/acquittal. The learned counsel for the petitioner further submits that the learned Magistrate has now issued a non-bailable warrant of arrest against the petitioner to secure his presence consequent to his failure/inability to appear before the learned Magistrate earlier. He faces the prosecution under the provisions of the P.F.A. Act. The learned counsel for the petitioner prays that directions may be issued to the learned Magistrate under Sec.482 of the Cr.P.C. to release the petitioner on bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the

circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there. The dismissal of this Crl.M.C. as withdrawn, I repeat, shall not, in any way, affect the rights of the petitioner to raise all appropriate contentions before the learned Magistrate to claim discharge/acquittal.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge

(R. BASANT, JUDGE)

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